

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13130, of Joyce F. Press, pursuant to Paragraph 8207.11 of the Zoning Regulations, for a variance from the prohibition against allowing parking spaces within ten feet of a wall containing openings designed to provide light and ventilation for a multiple dwelling in an R-5-B District at the premises 1615-1617 Swann Street, N.W., (Square 177, Lots 124 and 125).

HEARING DATES: December 19, 1979 and March 19, 1980
DECISION DATE: April 2, 1980

FINDINGS OF FACT:

1. The subject property is located on the north side of Swann Street, between 16th and 17th Streets, N.W., and is known as 1615-1617 Swann Street, N.W. It is in an R-5-B District.
2. The subject site is approximately 8600 square feet in area, and is rectangular in shape. There is a ten foot wide public alley to the rear and east of the subject property.
3. The subject site is improved with two apartment buildings. No. 1615 Swann Street and No. 1617 Swann Street have Certificates of Occupancy issued in 1977 and 1978 for apartment houses of eight and seven units respectively.
4. By letter of March 7, 1979, the applicant was advised by the Office of the Zoning Inspection Branch that the parking spaces in the rear yards are within ten feet of a wall with openings to provide light and ventilation for a multiple dwelling and that this was a violation of the Zoning Regulations. The applicant was advised to file an application with the BZA to request a variance from the Zoning Regulations.
5. The applicant is providing, free-of-charge, nine parking spaces in the rear of the subject apartment houses. Five of the parking spaces are at least nine feet wide by nineteen feet in depth. Four of the spaces are nine feet wide and approximately 16.5 feet in length. All such measurements are based upon all the cars abutting the rear walls of the buildings.

6. The applicant argued that although there are windows in the rear walls of the first floor of the buildings, the first floor is well above ground level so that the windows are several feet above the height of a car and light is not blocked to the apartments. The applicant further argued that all cars are parked head-on so that there is no ventilation problem from any exhaust. Also, all but one apartment has air conditioning.

7. The applicant testified that there is a severe shortage of parking spaces on Swann Street and the facility of parking in the rear alleviates the shortage for other residents. The applicant's tenants supported this proposition.

8. The alley to the rear of the subject property runs parallel to Swann Street and T Street. There are also two utility poles on the north side of the alley. Two home owners who reside on T Street and have access to their garages through the subject alley objected to the application. A third objectant lives at the end of the subject alley. The objections were based on the reasons that the tenants in parking their cars extend the cars into the alley thus blocking entrance into the garages. Such cars are also a serious hazard for fire trucks, trash trucks and all delivery trucks. The objectants further argued that since the applicant does not reside in the subject premises there can be no control over the manner in which the cars are parked.

9. Reports from the D.C. Fire Department and Department of Environmental Services were received after the close of the hearing. In order to allow all parties an opportunity to respond to those reports, a further hearing was held on March 19, 1980 which was limited to the reports of the D.C. Fire Department and the Department of Environmental Services and issued related thereto.

10. The Fire Department testified that the nine parking spaces prevent accessibility to the rear of 1615-17 Swann Street, N.W. by fire apparatus. The rear of the building can only be entered by one direction - the public alley at the right side of the building. The north side is blocked by a chained link fence. This alley, can only be entered from Swann and T Streets, N.W. Parking space "1" prevents access by men and equipment to the rear via a space on the left side of the building. Parking spaces "5" and "6" prevent access to the only available entrance to the rear for fire fighting purposes, for men and equipment. The intersection of the rear public and side public alley is further hampered by a utility pole at that particular location. Noting the above conditions, the Fire Department recommended the disapproval of the application and elimination of the parking spaces at the rear of 1615-17 Swann Street, N.W. The Fire Department reported further that if parking spaces "5" and "6" were eliminated it would be satisfactory and if parking space "1" were also eliminated the Fire Department would have no problems with access.

11. The Bureau of Solid Waste Collection, Department of Environmental Services, testified that if the variance is allowed this Bureau can no longer negotiate the alley and could not service approximately four homes from the alley. This would force the Bureau to change the point of collection for these four homes from the alley rear to the front.

12. Advisory Neighborhood Commission - 1C made no recommendation on the application.

13. Following the meeting of the Board at which the Board voted to deny the application, by letter of April 28, 1980, the applicant requested that the application be withdrawn so that the applicant could work out the parking in an alternative manner. At its public meeting of May 5, 1980, the Board denied the request to withdraw on the grounds that the application had been processed fully and that a decision had already been made.

CONCLUSIONS OF LAW:

Based on the record, the Board concludes that the applicant is requesting an area variance, the granting of which requires a showing of a practical difficulty upon the owner of the property that stems from the property itself. In addition for the variance to be granted, it must be established that there will be no substantial detriment to the public good and no substantial impairment of the intent, purpose and integrity of the zone plan. The Board concludes that there is no practical difficulty inherent in the property itself. The parking to the rear is basically a convenience to the tenants. The Board further concludes that based on Findings Nos. 8, 10 and 11 the granting of the variance would create substantial detriment to the public good. Accordingly, the application is DENIED.

The Board further notes that the applicant's motion to withdraw is inappropriate after a decision was made by the Board, which lacked only the issuance of the written Order. The applicant's motion to withdraw if granted, would avoid the prohibition against refiling for one year. The consequences of allowing such a practice, after decisions are rendered by the Board, would undermine the intent of the rules. The motion to withdraw is therefore denied.

VOTE on the application: 5-0 (Charles R. Norris, Connie Fortune, William F. McIntosh and Leonard L. McCants to DENY, Theodore F. Mariani to DENY by PROXY)

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Vote on the request to WITHDRAW: 5-0 (Walter B. Lewis, William F. McIntosh, Connie Fortune, Charles R. Norris and Leonard L. McCants to DENY).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:



STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 18 JUN 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."